

# The Topeka State Journal.

10 CENTS A WEEK.

NIGHT EDITION.

TOPEKA, KANSAS, MONDAY EVENING, NOVEMBER 5, 1894.

TWENTY-SECOND YEAR.

## FOSTER'S DECISION

In the Santa Fe Injunction Case Made Today.

Temporary Injunction is Denied by Judge Foster.

## SWEEPING DECISION.

Cumulative Plan of Voting Knocked Out.

Protectives Defeated and the Old Crowd All Right.

Judge C. G. Foster this morning denied the temporary injunction to restrain the stockholders of the Santa Fe railroad from casting their votes on the non-cumulative plan.

The decision is one of the most sweeping opinions on record. It decides not only that the cumulative system of voting does not apply to an election of directors for the Santa Fe, but that the company has a charter and is operating under the grant of incorporation issued by the territorial legislature in 1858.

The protective committee is overwhelmingly defeated on every point. This destroys the last hope of the protective committee.

The protective committee may appeal from Judge Foster's decision to the United States circuit court of appeals, which is composed of United States Circuit Judges Caldwell, Sanborn and Thayer, but they cannot be reached in time to prevent the election. Messrs. Wollman and Summerfield, who are attorneys for the protective committee, say that the case will come up on a final hearing in the United States circuit court here in June but Mr. Ware, who is the attorney for the directors, laughs at the idea that there will be any further hearing.

General Tracy, who is the principal attorney for the protective committee has returned to New York and was not present to hear the decision. Henry Wollman of Kansas City and M. Summerfield of Lawrence represented the protective committee today and Mr. Wollman took an exception to the decision.

Judge Foster's decision was very exhaustive and covered every point at issue. It was only partially written and there were numerous citations.

"The complainants bring a bill," he said, "praying that the defendants may be enjoined from interfering with certain alleged rights. They charge that the defendant stockholders having in control a majority of the stock have combined together to prevent the plaintiffs from casting their vote according to the statutes of the state or by the cumulative plan of voting."

"Now in determining this question its importance must be apparent. This great railroad system is now in charge of the court and the power of the directors is unimportant; but sooner or later the property will be turned over to its owners."

"The plaintiffs claim that the original charter has been modified by subsequent legislation. They also claim that congress has absorbed the power over the territory and that congress admitted that power when the territory was admitted as a state."

Judge Foster quoted numerous authorities to disprove the position assumed by the plaintiff. He read from the original charter of the company the provision which says that every share of stock shall be entitled to one vote, in person or by proxy, in the election of directors.

"This clearly means," he continued, "that the vote shall be cast on the non-cumulative plan, and it has been repeatedly so held by courts. It is a vested property right, and no power is reserved in the charter to any legislative or other power unless it would be found in some other act of the territory."

"It is written of our first parents that they were tempted and fell, but with the temptation they had the admonition that in the day that they had eaten of the forbidden fruit they would surely die. No such warning was given with the temptations and benefits offered by these enactments. They appear to have been gifts as freely to be had as divine salvation. Charters of corporations are usually ex gratia, and yet they have their compensation. These new statutes were desirous of enlisting capital in the building of railroads and thus develop their resources and increase their taxable wealth."

"It is strenuously insisted by the plaintiffs counsel that the action of the defendant corporation in accepting the provisions of the act of 1887, giving them the authority to issue stock conformably with the act and the issuance of the stock under the act, invested the stock with all the attributes of the stock of other corporations and it to all the laws of the state including the cumulative system of voting."

"This is the strongest point made by the plaintiffs and still it rests upon an implication and this point is asked to divest a corporation of an admitted vested right upon the strength of an implication. This is not favored by the law," Judge Foster then quoted numerous authorities sustaining his position.

"So far as it was the intention of the act of 1887 to repeat any vested rights, such a purpose is expressly denied. It appears to have been the intention of the act to permit the railroad company to increase their capital stock under any rights then existing under their charter. There are no terms or conditions imposed which indicate any intention on the part of the state to abrogate any right or powers already enjoyed by these corporations."

"It was competent for the legislature, if it saw fit, to make a gift to a railroad corporation without any reservation."

"For the reasons above given there is no justification in law for the injunction asked for, and it is therefore denied."

## THE ANNUAL MEETING.

The Santa Fe Stockholders Meet this Afternoon and Elect Directors.

The annual meeting of the stockholders of the Atchison, Topeka & Santa Fe railroad which was to have elected a new board of directors on the 25th of October met in adjourned session this afternoon and performed that duty.

The meeting was held in the private office of General Manager J. J. Frey and was presided over by ex-Governor Thomas A. Osborn, who was elected chairman at the previous meeting.

When the meeting first convened there was a lively tilt between Director Charles S. Gleed, representing the directors' committee, and Mr. Henry Wollman, of the protectives.

Mr. Wollman introduced a long resolution demanding a full investigation of all the charges made against the present management of the company in connection with the payment of rebates.

Mr. Gleed moved that the resolution be referred to the directors and Mr. Wollman wanted the directors instructed to investigate and report to the stockholders. The meeting sustained Mr. Gleed and the directors were not given any instructions.

Mr. Wollman introduced several other resolutions, asking for investigation of all the charges about the manipulation of second mortgage bonds and the resolutions were referred to the directors without reading.

The committee which was appointed at the first meeting to take charge of the proxies and report who were entitled to vote in the meeting made its report which was adopted, although Mr. M. Summerfield of the protectives said there were about 8,000 shares missing.

The stockholders then got down to business and proceeded to the election of the following board of directors:

Edward J. Berwind, New York; James A. Blair, New York; William L. Bull, New York; R. P. Cheney, Jr., Boston; Thomas P. Fowler, New York; C. S. Gleed, Topeka; C. K. Holliday, Topeka; Samuel C. Lawrence, Boston; John A. McCall, New York; George A. Nickerson, Boston; P. I. Buelbrake, Topeka; E. Wilder, Topeka; F. K. Sturgis, New York.

Mr. P. I. Buelbrake was elected to succeed Mr. L. Severy of Emporia and Mr. Edward Wilder was chosen to fill the vacancy caused by the retirement of Mr. Alden Spence of Boston.

It is the understanding, however, that the election of both of these gentlemen is only a temporary matter, as they are to resign immediately and when the board of directors meets in New York and there is a quorum present Ex-Gov. Thomas A. Osborn will be elected to succeed Mr. P. I. Buelbrake and Mr. H. H. Duval of New York, president of the Florida Central railroad, will be elected to succeed Mr. Edward Wilder.

Aside from these changes the election today leaves the board of directors as it was prior to the holding of this meeting.

## DIDN'T PARDON MCKANE.

Gov. Flower Indignantly Denies a Report to That Effect.

ALBANY, N. Y., Nov. 5.—Gov. Flower today denied the story published in a New York paper that he had pardoned John J. McKane from Sing Sing prison. Gov. Flower said:

"The publication is absolutely false. The idea of pardoning McKane never entered my mind."

The rumor reached this city last night that McKane had been pardoned by Gov. Flower on Oct. 30, that he had been taken from Sing Sing prison that night and was already out of the country. The fact, the report said, was to be kept a secret until after the election and McKane was to remain abroad in conformity with an arrangement made with the governor and Mr. Hill's campaign managers for a period of ninety days.

A letter containing the positive statement that McKane had been pardoned by the governor had been received by a citizen of Kings county, who stipulated neither his own name nor that of his correspondent should be made public.

At Sing Sing prison last night, however, it was said by the keeper in charge that McKane was still in prison.

## GRAND JURY WEDNESDAY.

There is Plenty of Work For it to Do, But Will It?

At 9 o'clock Wednesday morning the grand jury will begin its star-chamber session. There is already a long list of people who will be subpoenaed to tell the jury what they know. It is stated authoritatively that there four or five places where liquors are sold, and at least two gambling houses whose fate are certainly sealed. But then, grand juries frequently fizzle. Great things are expected of it, but history shows that after being in session a number of weeks four or five indictments are returned, resulting in one or two convictions. There seems to be good reason to believe among the twelve who compose this grand jury, and it is hoped that it will do better. There is no lack of work for the grand jury, although a number of questionable places have shut down "until things quiet down again."

## Big St. Louis Hotel Burned.

St. Louis, Mo., Nov. 5.—The Bellevue, a family hotel at Fourteenth street and Washington avenue, was almost entirely burned out by fire that started in the basement last night. It is estimated that the loss on the building, which belongs to the General Beauregard estate, and contents will range from \$30,000 to \$75,000, partially insured.

## Militia Cost of the Strike.

SPRINGFIELD, Ill., Nov. 5.—Adjutant-General Orendorf has paid \$12,500 balance due the members of the Illinois National guard for services during the strikes of last summer. The total amount paid during the trouble was \$245,000.

The State Journal's Want and Miscellaneous columns reach each working day in the week more than twice as many Topeka people as can be reached through any other paper. This is a fact.

The Daily State Journal prints all the news.

## BOTH SIDES SURE.

New York Claimed for Morton by 50,000 to 100,000.

Democrats Say Hill Will Win by 30,000 Plurality.

## FIGHT ON TAMMANY.

Mr. Grant is Confident it Will Make No Difference.

The Betting is Five to Two on Morton.

NEW YORK, Nov. 5.—With fair weather tomorrow of which promise is given by the local forecaster of the weather bureau, a vote equal to that cast at the presidential election of 1892, will probably be cast in New York city, where local issues added to a most spirited canvass upon state questions have worked up the citizens to a degree of interest rarely felt in an off year. The canvass practically ended with Saturday night and today both Republican and Democratic headquarters here have a rest.

As the opening of the polls approaches the chiefs of the two great parties abate nothing of their claims as to what the result will be. For example, Mr. Saxton, the Republican candidate for lieutenant governor, who has been most active of all the candidates on his ticket connected with the mapping out of the Republican plans, predicts that Morton's plurality will be anywhere from 50,000 to 100,000.

Sixty thousand plurality is the general claim of his party associates, who are ready to give counts and figures for the faith that is in them. On the other hand John Boyd Thacher and Major Hiney who have been managing the campaign for Senator Hill say the Democratic plurality in the state will not be less than 30,000. This is based upon the theory that Morton's plurality above the Harlem river will not exceed 40,000. Against this Mr. Thacher anticipates Democratic pluralities of 60,000 in New York city, 10,000 in Kings county, 1,000 in Richmond county, and perhaps 2,000 in Queens county.

The estimates concede large reductions from the pluralities of Cleveland in 1892. The Republicans claim that the counties below the Harlem will have to overcome a plurality of from 80,000 to 90,000 if Hill shall be elected.

What is regarded as a potent factor in the result of this state is the fight that has been waged against the municipal rule of Tammany Hall. The work of the committee of seventy has been aggressively prosecuted. The committee has had the assistance of the clergy to an extent that has probably never been equaled, even in the days immediately preceding the fall of the Tweed-Tammany ring in 1871. The work of the committee of all this order on the state candidates will be nearly as perceptible as on the mayoralty contest.

But in spite of the forces arrayed against him Grant, the Tammany candidate for mayor, possesses the utmost confidence of success. Members of the state democracy he affirms are breaking away from the control of Ex-Mayor Grace and enrolling themselves under the Tammany standard.

Betting today continues as it has for several days, at odds of 5 to 2 in favor of Morton for governor. An exception was a bet of \$5,000 to \$12,000 which Mr. F. Dwyer made on Hill. Dwyer, who was represented to have \$10,000 to wager, could not be induced to place any of it on Grant. The latest actual wager on the stock exchange was \$400 to \$1,000 on Hill.

Betting men are predicting that the odds will be 4 to 1 against Hill and 5 to 1 against Grant by the time the crowds gather in betting resorts tonight. Richard Croker, it is alleged, has made one bet, but not on the election of Hill or Grant. His wager was that the constitutional amendment prohibiting pool selling would be defeated.

The following bets have been made on the stock exchange today: \$5,000 to \$7,000 on Grant against Strong; \$5,000 to \$2,000 is offered on Morton; 1 to 5 is offered that Strong will win by 50,000; 3 to 1 is offered on Morton against Hill.

Be 12 to 5 on Morton.

NEW YORK, Nov. 5.—There was some lively betting at the St. James hotel last night. Joe Vendig, representing Michael F. Dwyer, wagered \$5,000 on Hill against \$12,500 on Morton with A. Matheson.

## BUSINESS MEN IN POLITICS.

They Unite on Republican Candidate for Governor in Minnesota.

St. Paul, Minn., Nov. 5.—Business men of St. Paul, among whom are about an equal number of Democrats and Republicans, have issued a circular letter to merchants and professional men urging them to vote for Kante Nelson, Republican, for governor. The letter says that the Democratic candidate is out of the race, and that to avert the calamity of having a Populist governor, it is the duty of both Democrats and Republicans to vote for Nelson.

The epistle has created a great deal of indignation and is likely to prove something of a boomerang. The labor element is particularly bitter in its comment and there is talk among the workmen that Owens' vote will be largely increased by this attitude of the business men.

## SITUATION IN NEBRASKA.

Dispatches Which Indicate the Contest Will Be Very Close.

St. Louis, Mo., Nov. 5.—A special from Omaha to the Republic says: Chairman Edmiston of the Populists gave a statement to the Republic correspondent. He said:

"There is no question about the result. We will elect the entire state ticket by majorities ranging from 5,000 to 25,000. Majors will not carry twelve counties of any size. We have 65,000 straight Populist votes. We will get 25,000 Democratic and 10,000 Republican votes for Holcomb. The Populists and Democrats combined will have a majority of thirty-three in the legislature."

"We are very hopeful of carrying the First congressional district, besides the Fourth, Fifth and Sixth, which are certain. The administration leaders at Washington have urged all Democrats in the state to prevent the election of Republican congressmen. There is going to be a landslide next Tuesday, and we are coming out on top."

Information from the inside shows that the Republicans have given up Majors and are trying to save the rest of the ticket and the legislature.

Holcomb estimates his majority at 15,000. The Bee puts it at 15,000 to 25,000. The Republicans still claim 15,000 for Majors, but refuse to make a statement or to give a poll by counties. There is no betting on Majors being done.

POPULISTS PULL OUT.

They Withdraw Their Candidate for Governor in Tennessee.

MEMPHIS, Tenn., Nov. 5.—Up till today the candidates for governor were Peter Turney (Democrat), the present incumbent; ex-Congressman H. Clay Evans (Republican); of Chattanooga; and A. L. Sims (Populist) of Nashville. The Reasoner, the Populist organ, announces withdrawal of Sims and calls on Populists to support the Republican ticket.

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## HE PULLED HIS LEG.

A Burglar Gets Caught in a Window and is Tied Fast.

John Hogan is a very much misguided white man with a lame leg. That is, it is lame this morning, and perhaps a little longer than it really ought to be. This is how it happened:

Mr. Montgomery Manson, colored, lives in North Topeka, at 722 west B street. This morning at about 4 o'clock Montgomery was awakened by a noise in his house. After a moment's listening he became convinced that someone was in his house and that his valuables might be in danger.

With firm determination and mighty little else he arose and hastened to the room in which the burglar seemed to be. He was there. It was Hogan, and he was half out and half in the window.

It seems he had taken a pane of glass out of the window and climbed in that way. He had found nothing he wanted and was taking only his departure.

Manson made a grab for the leg and succeeded in getting it. Hogan could not untangle himself from the window.

When Manson realized that Hogan was on such terms of intimacy with his window he was four or five feet away from the window and he was out of time to get a rope and Manson let Hogan sweat while he got it. It didn't take long to tie the leg to a table and then Manson sat down to enjoy a quiet chat with his visitor till daylight.

There were some unpleasant features about the situation for Hogan, but in regard to this Manson exhibited the coldest indifference.

"Do you think," he said, as he lighted his pipe, "that Morrill's majority will be more or less than 10,000?"

Hogan didn't appear to be interested. "I will pay for the cigars," said Manson next, "if you will go up town and get them."

Hogan didn't seem to want to go. "I had rather go home," he said, "it's cold out here."

"Well, why don't you go," replied Manson, "I haven't got anything but one of your legs."

Hogan was beginning to realize that this was a cold, unfeeling world. His conscience was troubling him and besides his leg was going to sleep.

"Say," said he, "don't you think this is going a little too far for a joke?"

"It is going a good deal farther than you are just now," replied Manson.

All this was very interesting for both and the same breezy, happy style of conversation was continued till daylight.

When daylight arrived Manson sent one of his children for an officer and Hogan was taken to the police station and held till a warrant could be sworn out for him.

For some will be tried in Justice Chesney's court soon after election.

## DISAPPOINTED AUDIENCE.

Jerry Simpson Didn't Come, But the Crowd Stayed.

Hamilton hall was crowded Saturday evening, but there was a disappointment in store for those who were there. Jerry Simpson, who was advertised as one of the principal speakers, was not there and the committee evidently knew he would not be at the meeting before hand, but still silly excuses were made to the crowd about the non-appearance of Simpson, and when it grew too late for him to come they said that when he reached Newton on his way to Topeka the Populists pulled him from the train and kept him there.

The crowd stayed, however, and listened to S. M. Scott. He was followed by John S. Crosby, of Missouri, who made a very eloquent address.

## TO REPUBLICANS.

Chairman Elliott Has a Few Words of Timely Advice.

The Republican county central committee desires the attention of Republican voters for a minute.

First of all, every Republican desires to assist and in no way can he do this better than to vote early. The polls are open at 8 a. m. and close at 6 p. m. Help the committee by seeing that your neighbors and associates vote early.

Another point: There will be a representative of the Republican party at each precinct. He will have charge of the book, report to him for suggestions before there is any clerical error in your registration the commissioner of elections will correct it. Do not leave the polls until your vote has been received.

Returns from the state and county will be received at headquarters, 415 Kansas avenue. We have both telephones, and will endeavor to answer all calls.

CHARLES S. ELLIOTT, Chairman.

## PEKIN IN DANGER.

Only a Mountain Pass Separates Japs from Chinese Capital.

A Japanese Column is Trying to Get in the Rear.

## TO DEFEND THE PASS.

Chinese Are Ordered to Hold It at All Hazards.

Several Other Passes on the South Undefined.

SHANGHAI, Nov. 5.—11:40 a. m.—The Chinese army under Gen. Shung which evacuated Chiu-Tien Cheng is in a mountain pass on the high road to Peking. Strict orders have been issued to the army to defend the pass at all hazards.

A Japanese column is marching north with the intention of getting behind Gen. Shung's army. Several small passes south of Matienling are undefended.

It is again stated in Tien-Tsin that a Japanese force landed forty miles north of Shanghai-Kwan. It is expected that foreigners will be officially requested to leave Peking within a fortnight.

No Chinese version has been received of the fighting at Tien-Tsin, but it is generally believed that the accounts already given are true. An imperial decree has been received at Nankin summoning the viceroy of the Hon-Kiang provinces to proceed at once to Tien-Tsin and take the seals of the acting viceroy of the Chili from Li Hung Chang.

## U. S. War Ship in China.

WASHINGTON, Nov. 5.—The Concord has arrived at the Chiu Kiang; the Petrel has sailed from Chefoo for New Chung; the Chicago, from Lisbon for Tangier, and the Montgomery has arrived at New York. The Baltimore has also arrived at Chefoo.

## SET BACK FOR SOCIALISM.

Chicago Federation of Labor Doesn't Endorse Government Ownership.

CHICAGO, Nov. 5.—After wrangling for two hours last night the trades and labor assembly by a vote of 28 to 26, refused to assent to the resolution endorsing the convention of the American Federation of labor to vote for "Plan No. 10" as contained in the political platform of the organization.

The socialists, however, declared that the end was not yet.

Plan No. 10 is that part of the American Federation platform which provides for the government ownership of the means of production and distribution, and this is not the first time that its consideration has raised a tumult in Chicago labor organizations.

## FIVE BROKE JAIL.

The County Jail at Lawrence Greatly Depopulated Yesterday.

Sheriff Hindman, of Douglas county, was in Topeka today looking for five prisoners, who broke out of the Lawrence jail yesterday. Last night Special Officer Wilcox, stationed in the state penitentiary, caught one of them, Fred Miller, a boy seventeen years old, serving a term for grand larceny. None of the rest have been apprehended although they are thought to be in Topeka. Perhaps they are among the many tramps who are begging on the residence streets yesterday and today. The other four are Bill Dudley, colored; John Austin, colored; Tom Hunter, colored, and Mott Ryan.

## HERR MOST EMBARRASSED.

He Didn't Know Whether to Thank God or Praise the Devil.

NEW YORK, Nov. 5.—Herr Most delivered one of his characteristic speeches last night at a meeting at the Adler theater. The object of the meeting, as announced, was to express public thanks for the death of the late czar of Russia, Alexander III. Herr Most's speech was in German. He said:

"Friends, I am a trifle embarrassed to-night. I do not know whether I should thank God for the death of the czar or give praise to the devil for it. We ought to be hundreds of thousands of meetings such as this in order that adequate rejoicing might be shown that such a monstrous brute as Alexander III has died."

"Every person is in duty bound, when we consider the ruin wrought by the czar, to wish they were all dead. We need not go to Russia for a czar either. We have them here in America just as well."

J. Gordon was even more radical than Most. He said: "Rise, Russians, and stamp out the brood of hyenas, the beastly Romanoffs. Down with them. They ought to be killed like brutes."

## HENRY GEORGE'S WORD.

Says Hill and Tammany Will Be Badly Beaten.

NEW YORK, Nov. 5.—Henry George says: "I can speak only for myself, but I think both Hill and Tammany will be badly beaten, because I believe that the considerations that influence me will influence many others who hold similar views. I shall vote against Hill because he is the head and front of the corrupt and corruptive Democratic state machine."

I shall vote against Tammany, not because I see in a mere change of men or of party any permanent cure for the political corruption of the city, but because after the partial exposure of that corruption that has been made it would be municipal condonation of systematized blackmail to continue in office the gang that have carried it on. In my opinion Hill will be beaten and Tammany will be beaten. And this will be the best thing that could happen for true Democracy."

Chas. F. Spencer and H. O. Garvey leave tomorrow for Washington and New York on a short business trip.

## ELECTION RETURNS.

The "State Journal" Will Bulletin the Returns on Election Night.

Every effort will be made to secure accurate figures.

The aim will be to get at the truth regardless of partisan feelings. In the issue on the day following election, the STATE JOURNAL will undertake to present the latest and most complete returns, free from political bias.

On election night the returns will be received in the STATE JOURNAL's telegraph office and thrown by means of a stereopticon on a large canvas covering the front of the Journal building.

Republicans, Populists, Democrats, Prohibitionists and Suffragists will all be welcomed. The STATE JOURNAL pays the bills—you do the rest.

## MRS. PECK WORSE.

She Will Be Brought Home to America at Once.

A telegram received at the Santa Fe general office today announces that Mrs. George R. Peck is worse and that she will be brought home at once. The family will sail from Geneva on Saturday on the steamer La Touraine.

## MISS ANTHONY IN TOWN.

Talks With a "Journal" Reporter—Speaks at Metropolitan Hall Tonight.

Miss Susan B. Anthony arrived in the city yesterday from Clay Center and is the guest of Mrs. Henry Hull on west Eighth street. She is besieged with callers, but turns a deaf ear to all questions regarding the election tomorrow. Her motive is not to antagonize any of the men who may or may not vote for her special hobby and she says after election is time enough for her to air her sentiments. "You may say that I have nothing to say," she said to a "Journal" reporter, "I am keeping quiet and awaiting results. In my travels over the state, when I talked to a Populist, the amendment was sure to carry and Populism was in the ascendency; when I talked to a Republican the g. o. was on top; when I met a Democrat, the Democrats were sure of a majority, and when I talked to a capitalist, earnest woman suffrage was not systematically sanguine over the prospect for equal suffrage. Everybody is putting up the best cheek and whistling to keep his hopes up."

I have visited ten places and found a new experience in having one party that is in favor of suffrage.

"The ignorant men in both of our parties are against it, because as I have told you before equal suffrage is a matter of culture, understanding and education. The ignorant men vote no. The Populists have done half as much as both parties could have done. They are all one party anyway, quarreling among themselves. I found it considerably easier to work with the help of one dominant party."

"I see you have been voicing your opinion of men on the hotel registers, Miss Anthony."

"I have been terribly misrepresented. On the hotel registers at Emporia I wrote the following sentence under my name: 'Every man in the state of Kansas who believes in the Declaration of Independence will vote for the suffrage amendment on Tuesday, Nov. 6.' I have frequently written that or let every man vote for the amendment, under my name but I have never written what I was credited with in the morning paper yesterday."

"Have your audiences been large," inquired the JOURNAL reporter.

"Yes," returned Miss Anthony, "and there is a point connected with my campaign that is interesting. In the ten places I have visited, I have made speeches three times a day, three hours and my audiences have been composed